Circular to all NIPSA Members in NI Water
from Antoinette McMillen, Deputy General Secretary
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2022-2023 Pay Claim
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Pay & Grading Critical Analysis Northern Ireland Water
by Distinctive People

Commissioned by McCartan, Turkington, Breen Solicitors
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PRIVATE AND PERSONAL

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understand the out workings of what was being suggested. The pay proposal is in our view needlessly complicated and it offers no contractual underpins.

We sought relevant expert advice to ensure that you, our valued members, would be protected and fully aware of all potential pitfalls and implications. This was absolutely essential given the complexity of the issues presented by the pay offer and was obtained subsequent to having received legal advice.

Our expert report pdf below) is now available for your review on our official website:

https://nipsa.org.uk/ni-water/1157-expert-report-and-concerns-on-the-pay-offer-updated

We urge each of you to take the time to go through the expert report as it sheds light on the complexities and dangers hidden in the offer, which may not be easily understood at first glance. As a starting point we would ask that you read the executive summary which gives a neat summary of the very serious concerns identified in relation to the pay offer.

We have also included a short summary of headline concerns arising from the pay offer at Appendix 1 to this bulletin. These are by no means a list of all concerns and we include the appendix as a starting point for the workforce in getting their heads around the difficulties and dangers associated with the pay offer.

At first glance, the pay offer may appear to be reasonable, even generous, given the offer of an increase in pay. We understand that given the present cost of living crisis, members will be eager to receive additional monies as soon as possible. However, upon further analysis it sadly becomes clear that the pay offer, as it was prior to negotiation and as it stands, is absolutely not in the best interests of the workforce.

Originally, the company put forward a new pay matrix, which removes contractual rights, and which did not allow the option to retain present terms and conditions. Whilst NIW have now given the option to retain present terms and conditions, no substantive alteration has been made to the pay proposal and it remains, in our opinion, unsuitable.

Our expert report makes it clear that the pay offer is in fact detrimental in nature, as it poses a significant threat to many of your contractual rights and is not as attractive as it first seems in terms of pay reward.

The contractual rights affected include, but are not limited to:

1. **Contractual Right to Pay Progression**: The proposed offer could r**emove your contractual right to fair pay progression**, hindering your ability to advance within the organization based on merit and experience.

2. **Contractual Right to Performance Pay:** Under the new proposals, **your contractual right to performance-based pay could be compromised**, impacting your potential to be rewarded for your hard work and dedication.

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3. **Contractual Right to Collective Bargaining**: The offer might also **undermine your contractual right to collective bargaining,** limiting the influence you have in negotiating for better working conditions**.**

Furthermore, the expert report highlights that the pay offer has far-reaching implications, not just for the present, but for your f**uture pension entitlements** and **various other aspects of your employment.**

In our ongoing efforts to safeguard your rights, we have corresponded extensively with management, seeking clarity and further negotiations on these critical matters. Unfortunately, from our point of view, NIW has not been forthcoming in addressing these concerns, leaving us with unanswered questions and unresolved issues.

NIPSA has consistently argued that the pay and grading review and the 22/23 pay deal may need to be seen and dealt with as separate issues in the best interests of the workforce. The company has however sought to place the two issues together during the course of negotiations. We have been pressing for the pay reward of 3.3 % revalorisation to be implemented without delay as it does not require giving up contractual rights that can be clawed back over time, unlike the proposals under the pay and grading review. The pay reward and the pay offer are two separate things, yet NIW have refused to proceed with the 3.3 % revalorisation and has insisted on tying up the 3.3% reward with the new pay offer. We believe this to be wholly unreasonable.

Further there has in essence been no material shift in the pay and grading review as put forward. The only shift by management was to change position to offer a limited choice of staying on present terms and conditions however on promotion an employee would move onto the matrix associated with the pay and grading review. Neither of these options were suitable on the basis of the expert advice received. The matrix itself is complex and unclear. As of 31 August 2023, further ambiguity has been injected into the mix as a result of a lack of clarity in respect of what the position is in relation to terms upon promotion. We believe that management have ultimately adopted a "take it or leave it" approach in relation to a wholly ambiguous pay system which we believe is not in the best interests of the workforce.

Management have attempted to assert that the Union's main issue with the pay proposal lies in the potential erosion of collective bargaining. Whilst the undermining of collective bargaining rights is a serious concern, the reality is that that the pay offer presents serious potential detriment to the workforce in terms of pay, including risks to pay progression and to performance pay. At all times the primary concern has been to protect pay and get the best possible deal.

We have asked for details in relation about those employees on TUPE protected terms and conditions and the precise protections for such employees in the context of the proposals being implemented. We do not believe that we have clarity in relation to those affected other than it appears there will be no unilateral variation per se, however it remains wholly unclear as to whether and to what extent TUPE protection will remain in place for those employees who move to the matrix.

Although PMR remains it is said to remain under the old scheme rules and it is therefore wholly unclear as to how people move through the matrix, which has no points of scale, and it is wholly unclear where caps are. The PMR 3-2-1 approach would appear not be a correct fit for the proposed matrix system. We are told there are no caps in the new system however we believe that the reality is that the caps from the present scheme will exist in transfer to the new matrix scheme. For example, an employee at 110% moving to the matrix is in effect capped. The proposal seeks to attract individuals into agreeing to the detrimental change to their contractual rights by way of a wholly unsatisfactory and unattractive non—consolidated non-pensionable payment. We understand the non—consolidated non-pensionable payment to be £250. In essence, the individual is being asked to give up their longstanding and important contractual rights for a fool's ransom.

You will note that the proposals set out a number of future projections claiming that only a small number of individuals would be anything other than better off. This is not accepted.

In respect of the proposed pay offer, it will be seen that our expert has concluded that the projections included as part of the pay proposal have no validity. Our expert concludes:

"Such projections have no validity as no contractual rights are offered to underpin them. In effect what is being proposed could be likened to purchasing a lottery ticket".

The evidence obtained also demonstrates that there are a number of hidden features within the proposals that could have a detrimental impact on an individual's current position. The expert report concludes in that regard that:

"The proposals are complicated, partial and in many respects do no more than make cosmetic change to what is currently in place, whilst expunging contractual safeguards. The 9% headline rate is deceiving. Pay inflation as of Feb 2023 was 6.7% with general inflation just under 10%.

Members are being asked to sign away rights and safeguards for what in our view is a disproportionate inducement compared to that they are being asked to surrender".

You will see from the executive summary that the proposal is described as

"*An emperors clothing offer and one that in our view has significant risk"*.

We were shocked when we received the expert report and we immediately set about raising the myriad concerns set out in the report with management.

Hopefully you can now see that we simply could not allow management to force through these changes which we believe are seriously detrimental to the workforce. We therefore have been anxiously corresponding and negotiating with management raising our concerns over the past number of months. At times, management took, in our view, excessive time to respond to our correspondence raising concerns and asking for answers. On one recent occasion management took several months to reply to our correspondence whilst consistently claiming delay was on the part of the Union.

We have at all times sought to move matters forward as quickly as possible and, whilst there was an initial delay occasioned by the need to obtain a suitable expert report, this was absolutely necessary in order that we could properly analyse the pay offer and represent your best interests. We moved as quickly as we could at all times.

We have repeatedly complained about the lack of consultation and negotiation meetings and management produced no minutes of any meetings. The delay started on the Management Side with a failure to respond to the Pay Claim which was lodged on 31 August 2022 which sought above inflation or 10%, reduction of payscales and **no strings attached.**

We were asked to consider a pay and grading review parts of which would be negotiated after members sign up to it. NIPSA has asked for those issues to be resolved prior to any offer going out to members as members need to know beforehand what they are being asked to sign up to. NIPSA are entitled to all relevant information for negotiation purposes.

Management asked to speak to our expert, to which NIPSA agreed in the spirit of cooperation and the independent report.

The slightly amended offer subsequently made failed to provide the required detail on the new matrix and had no underpins to protect members' contractual rights. Ambiguity remains in respect of terms and condition on promotion. Responses to questions asked and clarifications sought have been in our view vague. We cannot ballot without the required information to fully inform members. Management pushed for balloting however the reality is that seeking to negotiate the pay and grading review after members have been balloted is not acceptable.

NIW have accepted that in respect of the pay offer not all of the facts have been established and accept that are no guaranteed underpins.

We would stress that at no point did we reject the pay offer, rather we have been trying to negotiate with management to reduce risks and concerns and to ensure that there are proper contractual underpins. Ultimately, no meaningful movement has been forthcoming.

As part of the consultation process between the parties, in December 2023 we prepared a table (known as a Scott schedule) setting out NIPSA's position in relation to issues of concern arising in relation to the pay offer. NIW provided responses to those issues in summary form by reply of 22 December 2023. We felt progress was finally being made however NIW subsequently sent a letter of 25th January 2024 with unilateral amendments to the Scott Schedule, which in our opinion sought to materially resile from NIW's position as set out in the first Scott Schedule. Unfortunately, we are unable to share copies of either of these documents, which was proposed to NIW, as NIW have refused to waive the privilege of same. This refusal is revealing in showing the continuing opaque nature of the NIW proposal.

We have now come to a final conclusion after careful negotiations, consultation and having taken expert advice that:

The workforce should REJECT BOTH PART A AND PART B of the pay proposals arising from the pay and grading review by NIW.

As your representatives, we remain dedicated to fighting for your best interests. We will continue to strive for a fair and equitable resolution that upholds your rights and ensures a secure and prosperous future for all.

Should you have any queries or require further information, please do not hesitate to reach out to us.

Your input and feedback are vital as we navigate through these challenging negotiations.

Thank you for your continued support and solidarity.

In solidarity.

Yours sincerely

Antoinette McMillen

ANTOINETTE McMILLEN
Deputy General Secretary

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Appendix 1

Headline Concerns

1. The workforce is being asked to surrender contractual rights without safeguards to protect future revalorisation (cost of living increases and progression). There is no guarantee that performance assessments will not be moderated to achieve cost savings and or reclaim the upfront payment.

2. The introduction of a pay matrix which explains how performance pay is managed, but is not contractually binding, leaves the workforce in a vulnerable position. The matrix itself is vague, ill-defined and self-serving.

3. The headline pay increase rate is deceiving given the rates of pay inflation and general inflation, general inflation having peaked at around 10%, and, given the sacrifice of terms and conditions and in particular (a) contractually guaranteed revalorisation and (b) performance pay.

4. The proposals set out a number of future projections claiming that only a small number of individuals would be worse off however the fundamental point arising is that the projections have no validity because there are **no contractual rights offered to underpin the future projections.**

5. The proposal interferes with collecting bargaining rights and the negotiating powers of the Union in circumstances in which established contractual rights are being given up by the staff affected.

6. The potential impact of non-consolidated pay on pensions is very concerning. Non-consolidated payments are more likely to result in a detriment over the long term for those currently at 110%. Non-consolidated payments will be non-pensionable and the lost value of payments being non pensionable over the lifetime of an employee's career, could be considerable.

7. The rules for moving remain the same and therefore it is unclear as to how people move through the matrix or where there are caps.

8. NIW acknowledges itself that it is possible that uncapped employees may be better off in the current framework if for example they are at the bottom end of their pay scale or if a pay freeze were imposed on NIW.

9. We believe that a simple solution would be for NIW to remove the requirement for staff to give up their contractual rights to revalorisation, performance related pay and collective bargaining. NIW have refused to do so.

10. Whilst there is reference in the proposal to no employee suffering a detriment to current earnings and being protected, that is actually of limited comfort. It would have been contractually unlawful to reduce current earnings and protection is only being offered at the point of assimilation. Therefore, the proposals require employees to give up current contractual safeguards meaning that protection beyond the point of introduction would lapse.

BY EMAIL
Sara Venning
Chief Executive Officer
NI Water
Westland House
Old Westland Road
BELFAST BT14 6TE

10 August 2022

Dear Sara

2022/23 PAY CLAIM

Following agreement of the 2021 Pay Offer, NIPSA believe it is important to lodge the 2022/23 pay claim as soon as possible.

The NIW NIPSA Committee has considered the detail of the Pay Claim for 2022/23 and has determined that the claim should be:

- **An above inflation increase or 10% whichever is the greater on all pay points and allowances.**

- **Reducing the number of pay points to 3 in each grade.**

CPI inflation as of June was currently 9.4% and is projected to rise further in 2022 with RPI as of June 11.8%. Inflation is now expected to reach 13% or more. The 2021 pay increase did not meet inflation and staff are now struggling to make ends meet. Prices are going up faster than at any time in the last 30 years and it is predicted that food prices could rise by up to 15% this year.

The situation facing members is serious with the rising costs of household bills including oil, gas up 98.5%, electricity up 53.3%, children's clothes up 13.6% petrol 41.8%, rent, mortgages, rates as well as increased national insurance contributions. Basic food items such as milk are up 18.6%, butter up 21.5%, pasta up 15.9% and processed vegetables up 13.2%.

Things that every worker should enjoy, such as holidays or family outings, have become unaffordable for some. We are now in an unprecedented cost of living crisis which is why this pay claim is reasonable.

Public sector pay has fallen even further than private sector pay and, to make matters worse, recent pay awards have been less than those received by other public sector workers leading to members having low morale and feeling undervalued

NIW Staff worked tirelessly to keep the water systems in NI safe during the pandemic. In the current circumstances and with the uncertainty around the immediate future of an Assembly, NIW staff may be relied upon once more to ensure that all services continue to operate without interruption. It is time members were adequately rewarded for their work. It is also a matter of decency to pay a fair wage that reflects inflationary rises to allow staff to reasonably live.

NI Water Staff continue to have excessively long pay scales which takes years for them to reach the rate for the job we believe is unfair, unreasonable and this raises equality issues. Therefore we are seeking further reduction in the pay scales to achieve a maximum of 3 pay points in the grade.

This claim reflects inflation and the worth of NI Water staff.

It should be noted that NIPSA will not agree to any strings attached to this pay award.

Yours sincerely

Antoinette McMillen

ANTOINETTE MCMILLEN
Assistant Secretary

Pay & Grading Critical Analysis

Northern Ireland Water

March 2023

Introduction

Distinctive People were commissioned by McCartan, Turkington, Breen (MTB) solicitors to critically assess the Pay and Grading Review undertaken by Northern Ireland Water (NIW). The proposals emanating from that review have been presented by NIW to NIPSA (MTB's client) for consideration. The outcome of our critical analysis will help inform NIPSA's membership within NIW on the respective merits of the proposals made.

The commissioning brief was agreed as follows.

1. To provide advice on the pay and grading review proposed by NIW and specifically to address the 'pros and cons' of this review.
2. To prepare slides for NIPSA to present to its membership within NIW which will inform decisions to be made by the membership as to whether they accept or reject the pay and grading review.

In undertaking our assessment in line with the terms of reference we do so from a structural, policy, good practice, and collective benefit perspective. We do not to seek to provide any insight into the impact of proposals on individual employees but will simply compare the current approach to that proposed with observation and comment.

Distinctive People HR & OD Ltd is a strategic consultancy specialising in expert services in the following key areas of people management:

- Reward & Recognition
- Governance
- Executive Recruitment
- Organisation Development
- Leadership Development
- Coaching

The author of this report holds Partner designation for Distinctive People's Reward & Recognition Practice. In addition to leading strategic Reward projects, he has extensive Board member experience serving as a Non-Executive Director with a range of not-for-profit organisations throughout the UK (including Northern Ireland). He is a Fellow of the Chartered Institute of Personnel & Development and forms part of The Institute 'panel' called upon to investigate and hear allegations linked to The Institute's Code of Conduct & Ethics.

Distinctive People carries out circa 50 reward-based reviews a year. These commissions embrace the following specialist areas of reward management:

- Pay Benchmarking
- Job evaluation design & implementation
- Total Reward
- Development of best fit Pay Architecture
- Pay equality audits.
- Performance & Contribution Pay systems.

Our reviews are strategic in nature and combine organisational need with legal and good practice compliance. Our work is carried out throughout the UK and the Republic of Ireland with commissioning briefs seeing us retained as expert advisers to Executive Teams and/or Boards. In drawing on our specialist track record, we do so from an objective and good practice standpoint.

In completing the review, we were furnished with a comprehensive range of documentation pertinent to the current approach and that proposed. Our review has been undertaken by way of a mix of desk top analysis and meetings which included discussions with senior HR/Reward leaders in NIW.

Our overriding observation is that that the proposals are complex, surprisingly so for an organisation with a head count of circa 1400. In order to simplify our analysis, we have broken the proposals down into what we consider digestible sections most relevant to NIPSA's membership. These are set out as follows:

- Pay Structure & Progression
- Job Evaluation
- Transition & Buy Out

It is appreciated that the above in some instances overlap with one another. We therefore summarise our overall findings as a finale to the paper.

Executive Summary

The analysis and conclusions set out below represent our considered and expert view.

The proposals are heavily weighted to the employer and place future risk on the shoulders of the employee. Any short-term gain is achieved by surrendering contractual rights without safeguards to protect future revalorisation (cost of living increases), progression or a guarantee that performance assessments will not be moderated to achieve cost savings/reclaim the upfront 9% payment. The introduction of a pay matrix which explains how performance pay is managed, but is not contractually binding, leaves the workforce in a vulnerable position and greatly reduces the TU's negotiating powers.

The proposals are complicated, partial and in many respects do no more than make cosmetic change to what is currently in place, whilst expunging contractual safeguards. The 9% headline rate is deceiving. Pay inflation as of Feb 2023 was 6.7% with general inflation just under 10%. Members are being asked to sign away rights and safeguards for what in our view is a disproportionate inducement compared to that they are being asked to surrender.

The proposals set out a number of future projections claiming that only a small number of individuals would be anything other than better off. Such projections have no validity as no contractual rights are offered to underpin them. In effect what is being proposed could be likened to purchasing a lottery ticket.

There are a number of hidden features within the proposals that could have a detrimental impact on an individual's current position. These are more fully set out below. We choose however, to highlight in this executive summary the potential impact of non-consolidated pay on pensions. Non-consolidated payments are positioned as a virtue of the offer but are more likley to result in a detriment over the long term for those currently at 110%. Non-consolidated payments would be non-pensionable. The lost value of payments being non pensionable over the lifetime of an employee's career, could be considerable.

The above feature of non-consolidated payments is indicative of the proposals overall. They are somewhat of an *emperors clothing* offer and one that in our view has significant risk.

In quantifying our analysis, we have chosen to categorise as follows:

High Risk - a feature of the proposal that has the potential to severely impact on an individual in a detrimental way.

Medium Risk – As currently proposed it risks having a detrimental impact but could potentially be acceptable if modified.

Low Risk – unlikely to have any adverse impact if adopted.

Pay Structure & Progression

In our view the framework of the new proposed pay structure is to a great extent a re-representation of the current pay architecture albeit with a number of changes. It is predicated on a one organisation approach i.e., a unified pay structure which for an organisation the size of NI Water seems to be a sensible position to adopt. The elimination of performance pay 'barriers' would seem to be an improvement, reducing the voluminous numbers of pay spine points needed to be navigated if 110% market rate is to be attained. However, these are replaced by individual pay positions arrived at by way of performance appraisal assessments.

The introduction of non-consolidated payments for those at the ceiling of their band (Zone3), where performance ratings merit, is a positioned to be an improvement to the current strategy. However, that may not be the case given that such payments are non-consolidated and therefore non pensionable.

The proposed framework embraces job families/pay zones with a high degree of complexity in its operation. Whilst the working practicalities of the new proposals have been explained these working <u>assumptions are not supported by contractual right. This represents a diminution in the level of certainty that currently exists.</u> In our view this is a factor that will need to be carefully considered when determining the merits of the proposals made. Despite our expertise in this field, we have invested significant time in understanding the detailed operation of the scheme without gaining the level of clarity we would expect. This leads us to conclude that the level of detail required to make informed decisions by NIPSA members is not at this point forthcoming; the design of the model has been partial; or its construction is **deliberately conceptual to maximise future manipulation to accommodate changing business need.**

Whatever the answer, it does not currently pass the test set by us detailed below:

Is there a clear line of sight and certainty for all employees, whatever their role, to understand how their pay will be managed, progressed, and controlled during their employment with NIW without suffering a material diminution to their current rights?

Not only is the answer to the above a clear no, but the work and contractual assurance required to achieve that position is pronounced.

As part of our initial review a range of questions (not exhaustive) were raised to gain a more enlighten insight into the proposed strategy. The hope was that this would enable a more meaningful assessment to be made. Following written responses and a subsequent meeting with NIW, **the mechanics of the proposals and the business drivers upon which they are predicated were only responded to in part.**

To enable the reader to appreciate the breadth and depth of matters explored the questions posed, and their unedited responses from NIW, are shown in italics. The embolden text represents our conclusion following the additional information received.

1. **What is the points matrix that determines the link between job evaluation outcomes and allocated pay band?**

As previously discussed, the points matrix is the output of the new proposed job evaluation tool, the Mercer IPE system, which is referred to as a position class, reflecting the job size of the role within NI Water.

The points matrix, for the purpose of this scheme, links to the position class. The position class is derived by the points emanating from the job evaluation assessment. It appears, from the responses received, these were determined by a mapping exercise from the current approach to the new approach. More fundamentally we believe the actual job evaluation scores should be transparent and shared. At present that does not appear to be the case. Each pay band only shows the position class value not the number of job evaluation points that influenced that decision. The position class value is a Mercer designation and links to their pay survey outcomes. It potentially therefore has an indirect connection to pay.

Based on the current level of transparency we view these aspects of the proposal as high risk.

2. **How have/will the points split between bands be determined?**

As previously outlined, all jobs have been evaluated using the standard evaluation against the Mercer market reference job evaluations outcomes. Mercer then mapped the outcomes across to the current grading structure. In cases where there was any divergence, a targeted job evaluation using IPE was completed where possible. This exercise has defined the position class range across NI Water.

The split between bands was determined to support our employees' career journey, i.e. a mix of narrow and broad bands, where narrow bands represent smaller career steps and broad bands represent larger career steps. The career journey usually has more career steps at the beginning, with fewer steps later as incumbents stay in roles for longer. The new "One" NI Water grading structure reflects this, starting with narrow bands and becoming broader at Band 4. This will create more opportunities for progression within the organisation.

A side note, the associated salary structures were carefully considered to ensure that no employees would suffer "detriment" when compared to current earnings. In addition, if any roles were found to have a lower grade outcome, they were protected due to the same principle of "no detriment".

The responses provided to this question offer partial reassurance. The mapping across process is understood and accepted.

The reference to 'targeted job evaluation using IPE was completed where possible'. Where possible was explained as where job descriptions existed. We do not view this as a satisfactory response, and we are not clear on the number or % of roles falling into this category i.e where job descriptions were not available. We view this as a moderate risk as it can be easily rectified by producing contemporary job descriptions and re-evaluate these roles.

Reference to 'career journeys' is unclear, and we would expect significantly more detail of its design to be shared.

<u>**In our view the reference to no employee suffering a detriment to current earnings and being protected are of limited comfort. It would have been contractually unlawful to reduce current earnings and protection is only being offered at the point of assimilation. The proposals require employees to give up current contractual safeguards meaning that protection beyond the point of introduction would lapse. We view this as a high-risk element of the offer.**</u>

3. **How is positioning within the 3 pay zones determined i.e. if a job evaluated role is determined to be in Band 5, which zone is it allocated to and why?**

For example, if a job is determined to be Band 5, then that job would be simply tied to the relevant Band 5 salary structure.

Placement within the three new pay zones will be determined individually by the incumbent/position representative of each job. All individuals/positions will be placed within *their relevant salary structure following the application of 2022/23 transitionary pay deal i.e., following the application of the consolidated uplift.*

<u>The explanation provided is understood and noted. It further re-enforces the feel that the current approach is being lifted and placed within a similar pay framework with a different 'wrapper'. The three points in each of the pay zones is presented as an improvement on the current 20 plus pay points. However, given the way in which performance pay will apply we believe many employees will sit on their pay grade with hidden pay points resulting potentially in many more pay positions than those declared.</u>

<u>We view this area as a medium risk factor.</u>

4. **A key driver of the strategy is given as wishing to become market competitive. <u>Why is illustrative modeling based on only achieving the target market rate after 5 years as the implication of this is that employees will be paid at a submarket rate for potentially up to four years?</u>**

   As detailed previously, NI Water wishes to become market aligned to attract and retain talent across our business, ensuring we can deliver the water and wastewater services for the people of NI.

   In the current model it could have taken ten years to reach the market target, if this could have been met, given the current design does not allow for market alignment, and perpetuates market lag. NI Water, still operating within the public sector, has sought to bring about reform which will enable us to compete for talent right across the public and private sectors; this should be welcomed.

   There are a few considerations as to why the illustrative modelling might be based on five years to reach the market target rate:

   1. *It is widely accepted that individuals possess different competency levels relative to each job. It is a reasonable assumption that those entering a new grade are developing towards full competency, which should be reflected in their rates of pay.*
   2. *While NI Water may wish to progress individuals at a faster rate towards the market target, we will be constrained by public sector pay policy and thus affordability each year; therefore, a five-year illustrative example may be most realistic.*
   3. *From a retention perspective, it should also be noted that a minus 10% of market target is not ideal, but acceptable.*

We are concerned that the new proposals do little to effectively meet the concern NIW are allegedly seeking to address. We received unconvincing answers as to what the target market rate means in practice i.e. no transparency with process for monetary values. Furthermore, the response that positioned is better than that currently in place is of limited reassurance. It is our understanding based on the performance pay matrix it could take up to 7 years or more to reach the target market rate. If true, the desire to align the new structure to competitive market rates is significantly undermined. In addition, reference to time served being required to recognise full 'competency' is not credible when that journey

could take 7 years or more. Competency is rarely connected to time. The use of competency in the context of these proposal in our view is misleading and should read 'contribution' i.e. what an employee delivers and actually achieve.

In our view this is a high-risk consideration area in respect of the proposals as currently set out.

Why are the potential performance payments different for each pay zone? What is the rationale for making this distinction?

As previously explained, the aim is to align all Consistent performers to the market target, which is Zone 2 of each salary structure. To do this, we need to provide a more significant increase for those in Zone 1 with a Consistent and Exceptional performance rating. While those currently in Zone 2 at Consistent will receive a pay increase aligned to the salary structure, those with an Exceptional rating will receive an increase above the salary structure. Finally, those in Zone 3 with a Consistent rating will receive an increase at a lower rate than the salary structure, while those with an Exceptional rating will receive an increase above the salary structure.

It is important to note that those at the higher end of the structure will get higher pay award for each percentage when comparing the same percentage rate to peers at lower points in the salary structure, which could result in a similar sum in their pocket.

It should also be noted that the pay matrix is customisable, and the percentage distribution can be determined in consultation with TU on a yearly basis (working within public sector pay policy), which will ensure the fairest distribution of the available pay budget each year.

The explanation provided to this response in our view represents a high-risk consideration.

We believe the explanations provided are confused and unclear. The use of terminology has been applied inconsistently e.g., salary structure (we believe it's used in a way that is not intended)

We do not understand the logic of Zone 3 receiving lower % performance payments. We can only deduce from the explanation provided that this is a mechanism to limit, and control pay at a macro level. This is further supported by the fact the performance pay matrix is non contractual. Without contractual status the reference to annual 'customisation' is of peripheral benefit meaning that there is no obligation on the employer to make any performance payment at all.

Reference to the pay 'in the pocket' analogy seems to be no more than an explanation of how % calculations work – we are unclear of the relevance provided by this observation in relation to the question posed.

5. **Are the % figures shown within the model 'fixed' i.e., will they change for the period the strategy is in place?**

As mentioned above, this % will be determined in consultation with TU each year.

The % figures are projections only and not based on any factual or agreed contractual position and therefore cannot be relied upon by members to make an informed decision. We reiterate we see this element of the proposal high risk.

6. **Is it a correct interpretation of the model that all future increases will be performance driven and based on the annual appraisal assessment rating? If so this may lead to newly recruited employees being appointed at a salary rate higher than that of established employees. This can lead to equal pay considerations – see later in our report.**

NI Water will propose a minimum yearly increase for all employees, including partial achievers, to help mitigate any cost-of-living impacts for those employees. However, anything above that percentage will be determined by performance ratings.

Under these proposals, it should be less likely that we would need to place newly recruited employees at a higher rate than current employees as the proposed salary structures are market aligned. However, one of the key arguments in the 22/23 pay remit business case was for an unprecedented pay award was the fact that acquiring and retaining a strong talent base is critical to delivering water services in NI. As the sole water delivery utility organisation in NI, we are competing with high salaries offered by the private sector, we are recruiting in an extremely tight labour market, and we are facing an unprecedented number of retirements in the next 10 years and there may be occasions where we have to offer higher salaries than that of established employees. However, NI Water will continue to operate within TU agreed pay policy on this matter, which guides that all newly recruited employees should start at the bottom of the relevant salary structure and only in exceptional cases will new employees be offered higher salaries.

The explanation provided is viewed by us as a high-risk factor.

By stating that a minimum increase to all employees will be made to help mitigate any cost-of-living increase, is vague offering no real safeguard to the future value of base rates. <u>Again, this assertion is assumed to be non-contractual.</u>

<u>We view the statement 'unprecedent pay award' to be misleading. The offer accompanying these proposals embraces both revalorisation and contractual buy outs.</u> Furthermore, given the business case set out in the response linked to labour capacity both within and external to NIW we take a contrary view to the assertion that there will be less pressure to appoint new employees above existing employee rates (for the same role). Whilst in the short term that may be true in the longer term, such occurrences will become an increasing likelihood in some areas under the new proposals. No procedure or process has been agreed in relation to this issue.

7. **Does the premium structure only apply to IT? If other functions are incorporated how are these determined? What happens when the market changes and these roles no longer merit premium status based on changed economic forces?**

At this point, the premium structure only applies to certain IT jobs in theory; however, discussions are still ongoing with management regarding which IT and/or other roles should be included. On that basis, we have paused the implementation of the premium structure and will review this later in 2023. Effectively this will mean that all employees will move to the new core structures, which represent all jobs for L4-7.

Explanation provided is noted. In the event that this aspect of the proposal is re-presented we view this aspect of the new structure to be high risk as there is no explanation as to how these high premium roles will be determined or continually reviewed.

8. **Given that the 'Pay Class' links to a third-party provider (Mercer) how will this data be transparent to the employee/TU side?**

I'm unsure what this question is asking. If this refers to the market data used to determine our proposals on pay increases each year, this data is provided to NI Water under contract via our survey providers; thus, we would not be able to share the granular data or provide actual copies of the reports. TU are free to conduct their own market data research.

As part of our yearly pay talks, NI Water will share highlights and trend reports with TU, but not employees. This practice is not greatly different to our current position, where NI Water seeks market data for our annual pay deals to inform negotiations. At the same time, TU conduct a similar exercise to inform their negotiation position. NI Water will continue negotiating with their TU to determine the overall pay deal, which means that market data will only partly inform the final pay budget.

The explanation provided is noted. It is our view that the use of a propriety job evaluation scheme, with the same provider contracted to supply pay data analysis, is likley to change the way in which negotiations have worked hitherto. Additionally, the non-contractual positioning of the offer exacerbates that concern. We view this element as a high-risk consideration.

Job Evaluation

The proposed job evaluation scheme is a propriety brand and as such gives comfort that the design and correct application, based on supporting policy/governance guidance, will give foundation protection to pay inequality from a legal perspective. It is sophisticated and will require extensive training for all those forming part of the scheme's governance arrangements. The current scheme is basic, probably offers little if any legal mitigation and may not deliver internally fair outcomes.

In recognising the step change value of introducing the proposed scheme, there are nevertheless issues relating to its' application that do not appear to have been fully recognised within the papers reviewed. Again, these issues may have already been explored but given the superficiality of how the strategy will be applied, from the accompanying narrative offered by NIW, the following outstanding issues require improved insight before the resulting impact can be meaningfully considered.

1. **Why is there no TU representation or employee involvement in the initial job evaluation assessment?**

As per earlier consultation slides, TU was invited to put forward specific roles for the job evaluation exercise in October 2021. All TU representatives have been provided with full training to operate the new job evaluation tool (IPE). TU were also briefed on the outcome of the exercise in May 2022 and provided with the detailed output by job later in 2022.

The response provided doesn't address the issue raised. The detail of the scheme's application needs to be agreed with the trade union side together with the level of training need to apply the scheme with integrity. The trade union should in our view have full sight of the outcomes and subsequent moderation process.

2. **How will outcomes be conveyed? Will postholders get a full summary justification of the assessment outcome including a breakdown of the points total?**

The outcome of this exercise will be communicated to each employee via an individual impact letter which details their new grade and salary structure, plus other relevant information.

Other relevant information is a vague statement with little meaning within the context of the question posed. In order to alleviate concerns raised we believe 'disclosure' of the evidence and rationale for resulting assessments should be available to postholders. Without such information we view this as a moderate rated area of risk. This should include the exact points total for their evaluated role.

3. **If not, how can a meaningful appeal be lodged? What is the appeal criteria?**

All employees will have the opportunity to review the outcome of their grade without the need to meet any criteria within the first three months of the effective date of the change. These reviews will be completed by members of the HR team who have not been previously involved in this exercise, working in consultation with TU representatives.

If these reviews are challenged further, an appeal can be lodged to an appeals panel consisting of a Job Evaluation Lead, TU Representative and an independent member of HR.

This is rated as a high-risk area of concern.

In our view the job evaluation methodology should not become 'live' until such time as a full operating procedure is agreed. That should incorporate clear and unambiguous appeal criteria with defined roles and responsibilities for the appeals process including independent input. <u>We do not consider HR personnel to meet the 'independent' test in respect of this aspect of the process.</u>

4. **When is it envisaged that all roles will have been evaluated under the new methodology? In the intervening period is there an appeal mechanism by which postholders can appeal against the outcome of the 'read across/ slotting/alignment' process?**

   This question has already been addressed in 3 above.

5. **Whilst job evaluation provides a foundation basis upon which to base an equal pay strategy, the presence of performance pay significantly elevates risk and therefore a triennial equal pay audit (independently conducted) should be argued for as a core part of rectifying any occurrences of pay inequality that emanate from indirect discriminatory consequences linked to the application of performance ratings.**

NI Water does not take the view that the presence of performance pay significantly elevates equal pay risk. However, to provide assurance we'll conduct an independent audit, with the frequency to be determined at a later point.

In taking the view that 'risk' levels are not elevated in work environments, where performance pay systems operate, <u>NIW's position is at odds with guidance given when carrying out equal pay audits.</u> In the absence of committing to endorse to a policy position on carrying out independent equal pay audits, with agreed timescales and mechanisms by which improvement plans are progressed, we view this area as a high-risk element of the proposals made.

Transition & Buy Out

The data provided by NIW, by its own admission, states that potentially 14% of the workforce could be less favourably off under the new proposals after 5 years. In arriving at this conclusion, it is important to stress that is a forecast - possibility not probability – and could therefore be more.

In the documentation provided it is stated that 50% of the work population have reached their performance bar ceiling i.e. they can't progress further. This is projected to increase in coming years. In our view that assertion is misleading. The inference is that those on a performance ceiling below 110% are unable to progress – this of course is not true. If future performance ratings allow, individuals can progress to 110%, this being the 50% population referred to. In fact It is only those employees (estimated to be circa 25%) already on 110% that fall into the category of being worse off under the current arrangements which in any case is contested.

The new approach is positioned as designing out the performance ceiling feature. This is true but in our view is of minimal benefit as even on NIW's projections it is forecast to unlock 1.5%. 1.5% is the illustrative figure provided to suggest that this would be the amount any employee would receive. Again, this is an illustration not a guarantee. There is a likelihood, in our view, that it could be a lesser amount without some form of contractual safeguard. In effect the 1.5% is a revalorisation mechanism by any other name.

Based on published data (Statista) annual growth in earnings (UK) has only dropped below 1.5% once since 2012. The outlying year being 2021, the causation link being the pandemic. It is unclear therefore why 1.5% is being used to forecast future increases given that a key declared business driver for the new proposals is to maintain market competitiveness.

The removal of performance bars, which are pay control mechanisms, are being replaced by the performance pay matrix. The calibration of the matrix each year provides NIW with a different, but similar, control mechanism enabling the annual pay budget to be distributed in whatever way NIW sees fit without any contractual safeguards for the employee. NIW have confirmed that unlike the current link between appraisal assessment and performance pay the new proposals can be varied in % terms year without any contractual obstacle to do so. We believe that the pay matrix is at the heart of the new proposals and in effect will neutralise any meaningful opportunity for the union/employees genuinely influence annual award distributed. We view this aspect of the proposals as a very significant risk to both individual and collective rights with the potential to lead to genuine detriment.

The following is drawn from NIW issued documentation. In our view the value being offered to give up/buy out these rights is insufficient to recognise what employees would be giving up.

- ***The removal of any implied or expressed contractual right to performance pay progression.**
- **The removal of any implied or expressed contractual right to the pay spinal points system;**
- **The replacement of the current job evaluation system with the new IPE job evaluation system and governance framework.**
- ***The replacement of the current grading framework with the new grading structure and career maps.**
- ***The introduction of the pay matrix progression by replacing any revalorization and performance progression increase, which will be managed within an agreed budget.**

Those areas highlighted by a * pose the biggest obstacle to protecting employees' rights and avoid significantly moving the balance of control away from the employee to the employer. The proposed strategy reinforces NIW's commitment to performance pay but on the other hand wishes to make it non contractual whilst forecasting that they will uprate pay by 1.5% which based on historical trends guarantees pay will again become disconnected from competitive market rates. This represents a medium-term danger and a step into the unknown.

The proposed new grading structure is at present incomplete, overly complicated and has many omissions which could crystalise into detriments if clear and transparent answers are not provided. Until such time as this level of clarity is available it would be a high-risk decision to contractually move away from the current arrangements.

The introduction of a pay matrix which explains how performance pay is managed, but is not contractually binding, leaves the workforce in a vulnerable position and greatly reduces

the TU's negotiating powers. Furthermore, the new job evaluation scheme is connected to pay as determined by a third-party provider (Mercer's -Position Class). Their data sets may or may not have sufficient sensitivity to reflect the niche operating environment within which NIW operates. Mercer could inadvertently, or by design, act as a firewall to meaningful collective bargaining.

In considering the buyout offer two different issues are being combined: the pay settlement round for 2023/24 and buy out of those terms specified above. This could be construed to be a 'smoke and mirrors' tactic. The total combined offer is up to 9%. Inflation in December was recorded as 10.5% with pay inflation (Feb) at 6.7%. Historical pay inflation since 2012 has only dropped below 1.5% once. This being the figure quoted that all employees would have pay uprated by.

NIW state that part of the reasoning as to why they wish to bring in a new pay strategy is to recover their market position. If committed to this objective, they will need to settle at a rate beyond the 3.3% which we understand is their current offer. We accept that will be problematic given the public sector pay round and the need to demonstrate that higher settlements are underpinned by 'productivity' gains. In our view, the proposed buyout clauses go beyond productivity gains and act more like future control mechanisms to manage the pay budget. From a business point of view the strategy appears to be short term investment with a plan to recoup that investment over the longer term. NIW's future pay budget forecasts reinforce this suspicion given that total annual pay increases are illustrated at a position of circa 2%-2.5% - in our view this is modest for the foreseeable future. The danger of the buyout offer is that whilst the headline offer of 9% looks attractive, post implementation it increases the possibility that submarket settlements will become the goal.

Concluding Observations

In concluding the review, we acknowledge the need to modernise the current pay and grading structure. However, the proposals as presented are complex, in parts opaque, incomplete, and unlikely to motivate or inspire. In our view risk is being rebalanced towards the employee in a way that the workforce would disproportionately shoulder future risk in uncertain/difficult times.

It could be viewed that NIW are seeking to accelerate the introduction of the new approach whilst the economic head winds are favourable to them as a result of the cost-of-living crisis, labour shortage etc. We pose this as a possibility based on the significant gaps that exist in details of how the strategy will work in practice. In particular the lack of detail around the following gives cause for concern:

- How pay bands have been modelled – i.e., points split?
- The use of pay zones – in effective a more sophisticated representation of the current spinal columns.
- There appears to be no link to career paths in any realistic depth.
- Proposals for a future premium pay structure – if genuinely contemplated raising significant questions of concern.
- Why are there differentials in the performance pay matrix? We believe the unilateral desire to control pay distribution as a cost control mechanism represents a significant risk.
- There appears to be an absence of a detailed and timed implementation plan.
- Assimilation safeguards etc linked to moving from the current approach to the proposed new model are only given at the point of introduction i.e., no future progression protections.

In our professional view, based on the commissioning brief, the current proposals represent high risk which could impact negatively on the employment package post implementation.

Mark Glinwood MA FCIPD March 2023
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